IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22402 of 2004

Between:

Kanchapu Ramalingaiah, S/o. Ankamma, Hindu,
R/o. Chagantivaripalem Village, Mupalla Mandal, Guntur District.

.....PETITIONER

AND

1 The Joint Collector, Guntur, Guntur Districtr.
2 The Revenue Divisional Officer, Guntur Revenue Division, Guntur, Guntur District.
3 The Mandal Revenue Officer, Muppalla Mandal, Muppalla, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 1st Respondent Authority in not passing any orders on the Appeal Case filed by the petitioner vide Appeal NO. 55/2004-S7, as arbitrary, illegal, null and void and is against the principles of natural justice and norms of the public policy and further issue consequential directions to the Respondent Authorities to continue the petitioner as Fair Price shop Dealer.

Counsel for the Petitioner: MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

O R D E R:

The petitioner was appointed as Fair Price Shop Dealer of Chagantivaripalem village, Mupalla Mandal of Guntur District. On 14.10.2004, the second respondent issued a show-cause notice and passed order of suspension of the dealership pending enquiry on the basis of certain allegations. The petitioner claims to have preferred an appeal before he first respondent on 1.11.2004, together with an application for grant of stay. His grievance is that no orders have been passed so far by the appellate authority.

Heard leaned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The first respondent issued a show-cause notice dated 14.10.2004 on the basis of the report of the Mandal Revenue Officer. The allegation against the petitioner is that he collected higher rates for commodities from the card holders was not maintaining working hours, and running the Fair Price Shop benami. The petitioner contends that soon after the appointment of the petitioner, on account of political rivalries, the appointment was kept in abeyance and an unsuccessful candidate was appointed as a temporary dealer. It is stated that such a measure was stalled by this Court, and with a view to take vengeance, the sarpanch of the village has managed the entire matter.

The truth or otherwise of the allegation of the petitioner needs to be considered either by the second respondent while passing the final orders on consideration of the explanation, or by the first respondent while disposing of the appeal. Once the petitioner has availed the remedy of appeal and applied for interim orders, the first respondent ought to have taken prompt action in disposal of stay application. Delay in disposal of the application for stay some times would defeat the very purpose of preferring an appeal. Taking the totality of the circumstances into account, this Court is of the view that the suspension ordered against the petitioner

be stayed, till the disposal of the appeal by the first respondent.

Hence, the writ petition is disposed of, directing that the order of suspension dated 14.10.2004 passed against the petitioner shall remain stayed till the first respondent disposes of the appeal and that the petitioner shall be entitled to the distribution of essential commodities, pending disposal of the appeal. There shall be no order as to costs.

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6th December, 2004

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To

1 The Joint Collector, Guntur, Guntur Districtr.
2 The Revenue Divisional Officer, Guntur Revenue Division, Guntur, Guntur District.
3 The Mandal Revenue Officer, Muppalla Mandal, Muppalla, Guntur District.

4 Two C.Cs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad. (OUT)

5. Two C.D.copies.